



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
Secretary for  
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348  
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221  
[www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

**Arnold Schwarzenegger**  
Governor

January 25, 2010

Joe DeFrancesco  
Department of Public Works  
City of Orange  
300 East Chapman Avenue  
Orange, CA 92866

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE SANTIAGO CREEK BIKE TRAIL NORTH, CITY OF  
ORANGE, ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE)  
(SARWQCB REFERENCE NO. 302009-51)**

Dear Mr. DeFrancesco:

On November 4, 2009, we received an application from the City of Orange, Department of Public Works (City), for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the phased construction of a Class 1 (Off-Road) Bike route. Trail segments will be along the west side of Hewes Street, (East Bond Avenue to Villa Park Road/Santiago Canyon Road), along the north side of Villa Park Road /Santiago Canyon Road (Hewes Street to Cannon Street) and proceeding north along the west side of Cannon Street (to the Cannon Street Bridge at Santiago Creek), and along the east side of East Collins Avenue (East Bond Avenue to Santiago Creek) and proceeding westerly via an undercrossing of East Collins Avenue. The proposed trail is intended to improve roadway and bicycle safety consistent with the alignment adopted by the City's Bikeways Master Plan. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) Basin Plan and subsequent Basin Plan amendments:

Project Description:	To complete a link in Orange County's regional trail system and to continue the Santiago Creek Bike Trail, a 1.7 mile long by 10.0 feet wide asphalt concrete (AC) path, with landscaping, irrigation and fencing (along portions) will be constructed behind existing and new roadway curb or curb and gutter. Infrastructure improvements include: a new box-culvert and headwall within Alameda Channel on Hewes Street, an undercrossing at Collins Avenue; widening
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Street, an undercrossing at Collins Avenue; widening existing AC pavement, new curb, gutters and driveways, and an interim gravel trail staging area for approximately 10 parking spaces off Cannon Street. The trail improvements require localized excavation to depths ranging from approx. 1.5 feet for the typical trail segment to 20 feet for the undercrossing. Approx. 1,300 cubic yards (cy) of soil will be imported and 12,750 cy will be exported.

A southbound to westbound free right-turn lane at the intersection of Villa Park Road/Santiago Canyon Road and Cannon Street, will be constructed concurrently with the bike trail. The project will take place within an unsectioned portion of Township 4 South, Range 9 West, of the U.S. Geological Survey *Orange, California*, 7.5-minute topographic quadrangle map (33°48'27.2529" / -117°48'14.0651").

Receiving water:	Alameda Channel (Handy Creek), tributary of Santiago Creek.
Fill area:	0.04 acre of permanent and 0.13 acre of temporary impact to streambed (620 linear feet total).
Dredge volume:	N/A
Federal permit:	U.S. Army Corps of Engineers Nationwide Permit No. 42.

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

- Onsite Water Quality Standards Mitigation Proposed: Best Management Practices ("BMPs") will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").
- Post construction BMP implementation will be specified in a project specific Water Quality Management Plan, which will identify potential pollutants of concern and apply Structural, Non-Structural and Treatment BMPs accordingly.
- Once completed, the Project will become part of the City Municipal Activities Program, which includes operation and maintenance of treatment control BMPs

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and

Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0009, commonly known as the Orange County Municipal Storm Water Permit. Additionally, this project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 2009-0009- DWQ, will be obtained and a SWPPP (referenced above) will be developed to control the discharge of pollutants from the project site.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003, NPDES No. CAG 998001, at the Regional Board's website: [www.waterboards.ca.gov/santaana/](http://www.waterboards.ca.gov/santaana/) .

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the City of Orange adopted a Mitigated Negative Declaration for this project on September 8, 2009. The Executive Officer has considered the City's Mitigated Negative Declaration in the issuance of this Certification.

**This 401 Certification is contingent upon the execution of the following conditions:**

1. The applicant must comply with the requirements of the Clean Water Act Section 404 permit.
2. The applicant must timely implementation of all proposed mitigation measures,
3. Structural and non-structural BMPs shall be fully functional upon completion of the project.
4. Treatment BMPs shall be functional no later than 60 Days after completion of structural aspects of the project.
5. Whenever possible, native plant species shall be used for landscaping and for revegetating impacted areas.



Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

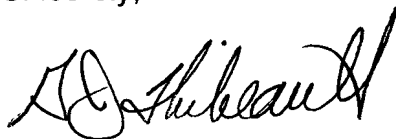


January 25, 2010

This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at [http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Yvette Cardenas  
Department of Fish and Game – Naeem Siddiqui  
State Water Resources Control Board, Office of Chief Counsel – David Rice  
State Water Resources Control Board, DWQ-Water Quality Certification Unit –  
Bill Orme  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini  
and David Smith

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